

Adopted	Rejected
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## COMMITTEE REPORT

YES: 11

NO: 0

### MR. SPEAKER:

*Your Committee on Judiciary, to which was referred House Bill 1262, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2004,
- 4       SECTION 1, AND AS AMENDED BY P.L.23-2004, SECTION 1, IS
- 5       CORRECTED AND AMENDED TO READ AS FOLLOWS
- 6       [EFFECTIVE JULY 1, 2005]: Sec. 37.1. (a) This section applies to a
- 7       rulemaking action resulting in any of the following rules:
- 8       (1) An order adopted by the commissioner of the Indiana
- 9       department of transportation under IC 9-20-1-3(d) or
- 10      IC 9-21-4-7(a) and designated by the commissioner as an
- 11      emergency rule.
- 12      (2) An action taken by the director of the department of natural
- 13      resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 14      (3) An emergency temporary standard adopted by the
- 15      occupational safety standards commission under IC 22-8-1.1-16.1.
- 16      (4) An emergency rule adopted by the solid waste management

- 1 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 2 (5) A rule, other than a rule described in subdivision (6), adopted
- 3 by the department of financial institutions under IC 24-4.5-6-107
- 4 and declared necessary to meet an emergency.
- 5 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
- 6 department of financial institutions and declared necessary to meet
- 7 an emergency under IC 24-4.5-6-107.
- 8 (7) A rule adopted by the Indiana utility regulatory commission to
- 9 address an emergency under IC 8-1-2-113.
- 10 (8) An emergency rule jointly adopted by the water pollution
- 11 control board and the budget agency under IC 13-18-13-18.
- 12 (9) An emergency rule adopted by the state lottery commission
- 13 under IC 4-30-3-9.
- 14 (10) A rule adopted under IC 16-19-3-5 that the executive board
- 15 of the state department of health declares is necessary to meet an
- 16 emergency.
- 17 (11) An emergency rule adopted by the Indiana transportation
- 18 finance authority under IC 8-21-12.
- 19 (12) An emergency rule adopted by the insurance commissioner
- 20 under IC 27-1-23-7.
- 21 (13) An emergency rule adopted by the Indiana horse racing
- 22 commission under IC 4-31-3-9.
- 23 (14) An emergency rule adopted by the air pollution control
- 24 board, the solid waste management board, or the water pollution
- 25 control board under IC 13-15-4-10(4) or to comply with a
- 26 deadline required by federal law, provided:
- 27 (A) the variance procedures are included in the rules; and
- 28 (B) permits or licenses granted during the period the
- 29 emergency rule is in effect are reviewed after the emergency
- 30 rule expires.
- 31 (15) An emergency rule adopted by the Indiana election
- 32 commission under IC 3-6-4.1-14.
- 33 (16) An emergency rule adopted by the department of natural
- 34 resources under IC 14-10-2-5.
- 35 (17) An emergency rule adopted by the Indiana gaming
- 36 commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- 37 (18) An emergency rule adopted by the alcohol and tobacco
- 38 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or

- 1 IC 7.1-3-20-24.4.
- 2 (19) An emergency rule adopted by the department of financial
- 3 institutions under IC 28-15-11.
- 4 (20) An emergency rule adopted by the office of the secretary of
- 5 family and social services under IC 12-8-1-12.
- 6 (21) An emergency rule adopted by the office of the children's
- 7 health insurance program under IC 12-17.6-2-11.
- 8 (22) An emergency rule adopted by the office of Medicaid policy
- 9 and planning under IC 12-15-41-15.
- 10 (23) An emergency rule adopted by the Indiana state board of
- 11 animal health under IC 15-2.1-18-21.
- 12 (24) An emergency rule adopted by the board of directors of the
- 13 Indiana education savings authority under IC 21-9-4-7.
- 14 (25) An emergency rule adopted by the Indiana board of tax
- 15 review under IC 6-1.1-4-34.
- 16 (26) An emergency rule adopted by the department of local
- 17 government finance under IC 6-1.1-4-33.
- 18 (27) An emergency rule adopted by the boiler and pressure vessel
- 19 rules board under IC 22-13-2-8(c).
- 20 (28) An emergency rule adopted by the Indiana board of tax
- 21 review under IC 6-1.1-4-37(l) or an emergency rule adopted by
- 22 the department of local government finance under IC 6-1.1-4-36(j)
- 23 or IC 6-1.1-22.5-20.
- 24 **(29) A rule adopted by the department of financial institutions**
- 25 **under IC 34-55-10-2.5.**
- 26 (b) The following do not apply to rules described in subsection (a):
- 27 (1) Sections 24 through 36 of this chapter.
- 28 (2) IC 13-14-9.
- 29 (c) After a rule described in subsection (a) has been adopted by the
- 30 agency, the agency shall submit the rule to the publisher for the
- 31 assignment of a document control number. The agency shall submit the
- 32 rule in the form required by section 20 of this chapter and with the
- 33 documents required by section 21 of this chapter. The publisher shall
- 34 determine the number of copies of the rule and other documents to be
- 35 submitted under this subsection.
- 36 (d) After the document control number has been assigned, the
- 37 agency shall submit the rule to the secretary of state for filing. The
- 38 agency shall submit the rule in the form required by section 20 of this

chapter and with the documents required by section 21 of this chapter.  
The secretary of state shall determine the number of copies of the rule  
and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is  
accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the  
following dates:

(1) The effective date of the statute delegating authority to the  
agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under  
subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by  
law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,  
IC 22-8-1.1-16.1, and IC 22-13-2-8(c), *and except as provided in  
subsection (j)*, a rule adopted under this section expires not later than  
ninety (90) days after the rule is accepted for filing under subsection  
(e). Except for a rule adopted under subsection (a)(14), *(a)(25), (a)(26),  
or (a)(28)*, the rule may be extended by adopting another rule under this  
section, but only for one (1) extension period. A rule adopted under  
subsection (a)(14) may be extended for two (2) extension periods.  
*Subject to subsection (j), a rule adopted under subsection (a)(25),  
(a)(26), or (a)(28) may be extended for an unlimited number of  
extension periods.* Except for a rule adopted under subsection (a)(14),  
for a rule adopted under this section to be effective after one (1)  
extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), ~~or~~ (a)(13), **or  
(a)(29)** expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule  
adopted under sections 24 through 36 of this chapter or this  
section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) *A rule described in subsection (a)(25) or (a)(26) expires not later than January 1, 2006."*

Page 3, line 28, delete "fund:" and insert "**fund by or on behalf of the debtor:**"

Page 3, strike line 29.

Page 3, line 30, after "(ii)" insert "(i)".

Page 3, line 32, delete "if the retirement plan or fund is" and insert "**which are made to**".

Page 3, line 33, delete "and contributions are made".

Page 4, between lines 1 and 2, begin a new line block indented and insert:

**"(8) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:**

**(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;**

**(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or**

**(C) aggregate contributions in excess of five thousand dollars (\$5,000) made by the debtor for all programs under this subdivision and education savings accounts under subdivision (9) having the same designated beneficiary:**

**(i) not later than one (1) year before; and**

**(ii) not earlier than two (2) years before;**

**the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.**

**(9) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:**

**(A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earning on the**

1           **excess contributions;**  
2           **(B) contributions made by the debtor within one (1) year**  
3           **before the date of the levy or the date a bankruptcy**  
4           **petition is filed by or against the debtor, and earnings on**  
5           **the contributions; or**  
6           **(C) aggregate contributions in excess of five thousand**  
7           **dollars (\$5,000) made by the debtor for all accounts under**  
8           **this subdivision and qualified tuition programs under**  
9           **subdivision (8) having the same designated beneficiary:**  
10           **(i) not later than one (1) year before; and**  
11           **(ii) not earlier than two (2) years before;**  
12           **the date of the levy or the date a bankruptcy petition is**  
13           **filed by or against the debtor, and earnings on the excess**  
14           **aggregate contributions."**  
15       Renumber all SECTIONS consecutively.  
      (Reference is to HB 1262 as introduced.)

**and when so amended that said bill do pass.**

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Representative Foley